

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 95-88
) RM-8641
Table of Allotments,) RM-8688
FM Broadcast Stations) RM-8689
(Rose Hill, Trenton, Aurora, and Ocracoke)
North Carolina)

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To: Chief, Allocations Branch

REPLY COMMENTS
of
AURORA BROADCASTING

Aurora Broadcasting ("Counterproponent"), hereby submits Reply Comments in connection with the Commission's **Notice of Proposed Rule Making ("NPRM")**, DA 95-1277, released June 19, 1995. Reply Comments are due by August 25, 1995, so this pleading is timely filed.

Background

In the **NPRM**, the Commission, at the request of Duplin County Broadcasters ("DCB"), licensee of WBSY(FM), Rose Hill, North Carolina, proposed the reallocation of FM Channel 284A from Rose Hill to Trenton, North Carolina, as a Class C2 allotment. The Commission also proposed the modification of WBSY's license to operate on Channel 284C2 at Trenton. On August 10, 1995, Counterproponent filed "Comments and Counterproposal of Aurora Broadcasting," proposing to allot Channel 283A to Aurora, North Carolina, as its first local service. On the same day, supporting comments were filed by DCB. Comments

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in opposition were filed by W&B Media, Inc.,¹ and Topsail Broadcasting, Inc.² A second counterproposal was filed by J.E.E. Broadcasting ("JEE"), proposing to allot Channel 284C3 to Ocracoke, North Carolina, as its second local service.³

Comparison of Counterproposals

Counterproponent proposed the allotment of Channel 283A to Aurora, North Carolina, instead of the allotment of Channel 284C2 at Trenton. The Counterproposal would bring first local service to Aurora. Counterproponent stated that if the Commission allots Channel 283A to Aurora, the Counterproponent, or an entity with which the Counterproponent is affiliated, will promptly file an application for construction permit for a new FM station on the channel, and upon grant, will construct and operate the facility.

JEE has counterproposed the allotment of Channel 284C3 to Ocracoke, North Carolina, as its second local service.

Discussion Of Public Interest Analysis

Counterproponent's counterproposal to allot Channel 283A to Aurora is preferred to JEE's counterproposal to allot Channel 284C3 to Ocracoke, or DBC's proposal to allot Channel 284C2 to Trenton, North Carolina. Attached is a Technical Statement showing that Channel 284A can be allotted to Ocracoke and Channel 283A can be allotted to Aurora as well. That would provide two new local service allotments in contrast to the loss of service to Rose Hill and the introduction of service to tiny Trenton. Ocracoke is an island

¹ Licensee of Radio Station WSFL-FM, New Bern, North Carolina.

² Licensee of Radio Station WZXS(FM), Topsail Beach, North Carolina.

³ Public Notice of the counterproposals for Aurora and Ocracoke was given August 21, 1995 (See Report No. 2092).

community accessible only by ferry boat. The 1990 census shows Ocracoke with a population of 650 persons. While only slightly larger (654 persons), Aurora has no local service, and Ocracoke already has channel 225A allotted to it.

Under the precedent in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), this Counterproposal is preferred to DCB's or JEE's proposal.⁴ The proposed allotment of a first local service to Aurora, North Carolina, is preferred to DCB's plan which would only change existing service, or JEE's plan which would provide second local service to Ocracoke.

WHEREFORE, the above facts considered, Aurora Broadcasting, hereby respectfully requests that the Commission deny DCB's Petition For Rulemaking and instead make the following change to the FM Table of Allotments:

<u>Community</u>		Channel No.	
		<u>Present</u>	<u>Proposed</u>
Aurora, North Carolina	Or	----	283A
Aurora, North Carolina		----	283A
Ocracoke, North Carolina		225A	225A, 284A

⁴ Counterproponent also hereby corrects an error on page 4 of its Comments and Counterproposal. There, Counterproponent erroneously stated that its plan would bring "first full-time aural service" to Aurora. This error was first noticed in preparing these Reply Comments. Counterproponent's plan would bring **first local service** to Aurora, not first full-time aural service. Counterproponent apologizes for this error.

Respectfully submitted,

AURORA BROADCASTING

A handwritten signature in black ink, appearing to read 'Gary S. Smithwick', written over a horizontal line.

By:

Gary S. Smithwick

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August 25, 1995

REPLY TO COMMENTS
MM Docket No. 95-88 (RM-8641)
Aurora Broadcasting
Aurora, North Carolina
August 1995

This Technical Exhibit supports the Reply to Comments by Aurora Broadcasting ("AB") in MM Docket No. 95-88 (RM-8641). AB proposed during the comments period of this proceeding to assign Channel 283A to Aurora as that community's first local service. This is a counterproposal to the request by Duplin County Broadcasters ("petitioner") to substitute channel 284C2 at Trenton, North Carolina, for Channel 284A at Rose Hill, North Carolina,. AB counter proposed to allocate Channel 283A at Aurora, to leave Channel 284A at Rose Hill and not to assign Channel 284C2 at Trenton.

J.E.E. Broadcasting also filed comments during the comment period and proposed that Channel 284C3 be assigned to Ocracoke, North Carolina, as that community's second service. The J.E.E. proposal will be in conflict with the original proposal by the petitioner and by the AB proposal. If Channel 284C3 were assigned to Ocracoke then Channel 283A cannot be assigned to Aurora.

However, further allocation studies from the same AB and J.E.E. reference points show that Channel 284 can be assigned to Ocracoke¹ as a Class A facility and be properly spaced under Section 73.207 with Channel 283A at Aurora². Channel 284A cannot be assigned to Ocracoke if Channel 284C2 was assigned to Trenton.

¹ J.E.E. Broadcasting proposed a reference point of North Latitude 35° 06' 27" and West Longitude 75° 58' 11" for channel 284C3.

² Aurora Broadcasting proposed a reference point of North Latitude 35° 21' 03" and West Longitude 76° 49' 39" for Channel 283A.

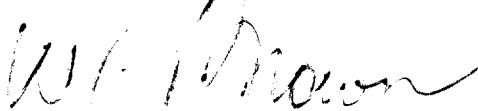
Ocracoke, North Carolina, is a unique place in that it is totally contained on an island with no direct access to land. With no bridge, the island is accessed by ferry boats. This island is very small (one of North Carolina's outer banks). It varies from about 2 to less than 1 km wide and is about 10 km long. Only a small portion of the island (about 3 km) can be developed as the remainder is a part of the Cape Hatteras National Seashore. The small populated portion of the island can be more than adequately served by a Class A facility.

The petitioners proposal will provide first Class C2 service to Trenton and delete full-time service to Rose Hill. The J.E.E. proposal will retain Class A service at Rose Hill and add second service (one Class A and one Class C3) to Ocracoke. The AB counterproposal will provide first Class A service to Aurora, second Class A service to Ocracoke and retain the only full-time Class A service to Rose Hill.

Therefore, AB further counterproposes that the table of assignments be amended to reflect the following:

City	Channel No.	Proposed
Rose Hill, NC	284A	284A
Aurora, NC	283A	283A
Ocracoke, NC	285A	285A, 286A

Bromo Communications, Inc.



William G. Brown

CERTIFICATE OF SERVICE

I, Denise L. Felice, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 10th day of August, 1995, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

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